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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/009,830	12/17/2001	Alan Stephenson		1190

7590 09/24/2003

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[REDACTED] EXAMINER

BRYANT, DAVID P

ART UNIT	PAPER NUMBER
3726	

DATE MAILED: 09/24/2003

✓5

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)
	10/009,830	STEPHENSON, ALAN
	Examiner David P. Bryant	Art Unit 3726

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on _____.
- 2a) This action is **FINAL**. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 26-47 is/are pending in the application.
 - 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) 26,29-33,36,37 and 39-47 is/are rejected.
- 7) Claim(s) 27,28,34,35 and 38 is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) The proposed drawing correction filed on _____ is: a) approved b) disapproved by the Examiner.

If approved, corrected drawings are required in reply to this Office action.
- 12) The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.
- 14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
 - a) The translation of the foreign language provisional application has been received.
- 15) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- | | |
|--|--|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____ . |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ . | 6) <input type="checkbox"/> Other: _____ . |

DETAILED ACTION

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 26, 29-33, 36, 37, and 39-47 are rejected under 35 U.S.C. 103(a) as being unpatentable over Applicant's admitted prior art (AAPA) in view of German Patent 629,335 (DE).

Claims 26 and 36: AAPA is outlined in the preamble to the claim, wherein a plug/screw combination is inserted into a hole in a fixture, but the hole is oversized with respect to the plug, resulting in the plug being carried only loosely in the hole.

AAPA fails to teach the claimed steps of applicant's improvement, i.e. providing at least one piece of a loosely-woven fabric carrying consolidated thereon a quick-setting filler material, withdrawing the undersized plug from the hole, enveloping the plug in the fabric piece, activating the filler material to initiate hardening and setting of the filler material, and inserting the enveloped plug without delay back into the hole, wherein the filler material expands to fill the oversized hole to capture the plug therein. AAPA also fails to teach the filler-containing loosely-woven fabric, *per se*.

An English language translation of DE has been provided to applicant, wherein is disclosed a method of fixing a screw within a hole in brickwork or masonry, the hole in the

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brickwork being oversized, preventing the screw from properly anchoring within the hole. The method comprises providing a piece of cotton fabric (i.e. "loosely-woven fabric") **a** carrying consolidated thereon a filler material (see Figure 1), enveloping the screw **b** with the fabric piece (see Figure 2), activating the filler material to initiate hardening of the filler material, and inserting the enveloped screw into the hole (see Figure 3), wherein the filler material expands to fill the oversized hole to firmly anchor the screw within the hole.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to have used the filler-containing fabric piece of DE to envelop the plug of AAPA to fill the space between the plug and the oversized hole. It is noted that the AAPA/DE combination fails to explicitly teach the step of withdrawing the plug from the oversized hole before enveloping the plug with the fabric and re-inserting the plug into the hole. However, the most logical way to determine that a hole has been formed "oversized" with respect to the plug to be inserted therein is to insert the plug into the hole to see if it fits properly. If not, the plug would need to be withdrawn such that the fabric piece could be used. These determination/withdrawal steps would clearly be obvious to one having ordinary skill in the art.

Claim 29: As disclosed on page 4 (lines 15-17) of the DE translation, the filler material is "immersed into a water bath" to activate it.

Claim 30: As disclosed on page 2 (line 16) of the DE translation, the filler can be "plaster powder." Reference to "plaster of Paris" in line 5 of page 2 is suggestive enough to one of ordinary skill in the art that the "plaster powder" could be plaster of Paris.

Claim 31: As disclosed on page 3 (lines 2 and 19-21) of the DE translation, the filler material can be gypsum powder.

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Claims 32, 37, 41 and 47: As disclosed on page 3 (lines 20-23) of the DE translation, “other chemical compounds can be admixed, such as, e.g., alum, for the purpose of an improvement of the hardening or setting” of the filler material. Although no mention is made of the inclusion of “short, strength-enhancing fibers,” in view of the disclosure of DE as a whole, one having ordinary skill in the art would have recognized that an admixing of fibers to the filler material would also enhance the strength of the filler material when hardened, and the inclusion of such fibers within the filler material is thus deemed to have been obvious.

Claims 33, 40, and 42: As disclosed on page 4 (lines 1-5) of the DE translation, the fabric may be provided in the form of a coil/roll (i.e. a “tape”), from which a strip is removed and “wound twice around the screw-shaft.” Regarding the limitation in claim 40 for the tape to include “transversely weakened” positions therealong, the examiner takes Official Notice that it is well known to provide a rolled tape with spaced transverse perforations to facilitate separation of a pre-sized piece of tape from the roll, and one of ordinary skill in the art would have found it obvious to do so with the tape of DE.

Claim 39: As seen in Figure 1, the piece of fabric **a** is rectangular in shape.

Claims 43-46: These claims each recite a particular manner of packaging the filler-containing fabric pieces. However, the examiner takes Official Notice that the packaging methods are all known, *per se*, to package items of various types. To utilize one of these known packaging techniques for the fabric pieces of DE would have been obvious to one having ordinary skill in the art to condensely package the fabric pieces and/or to prevent their unwanted/premature activation.

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Allowable Subject Matter

Claims 27, 28, 34, 35, and 38 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

The following is a statement of reasons for the indication of allowable subject matter:

Regarding claims 27 and 28: The prior art fails to teach or suggest the method as claimed, wherein the filler material consolidated on the woven fabric is air activated, rather than water activated.

Regarding claim 34, 35, and 38: The prior art fails to teach or suggest a filler-containing fabric piece for use in the claimed method, wherein the fabric piece is circular in shape such that it can be applied as depicted in either Figure 5 or Figure 6 (the steps of which are recited in claims 34 and 35, respectively).

Conclusion

Telephone inquiries regarding the status of applications or other general questions, by persons entitled to the information, should be directed to the group clerical personnel. In as much as the official records and applications are located in the clerical section of the examining groups, the clerical personnel can readily provide status information. M.P.E.P. 203.08. The Group clerical receptionist number is (703) 308-1148.

If in receiving this Office Action it is apparent to applicant that certain documents are missing, e.g., copies of references cited, form PTO-1449, form PTO-892, etc., requests for copies of such papers or other general questions should be directed to Tech Center 3700 Customer Service at (703) 306-5648, or fax (703) 872-9301 or by email to CustomerService3700@uspto.gov.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to **David Bryant** whose telephone number is (703) 308-1859. Draft

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amendments or proposed changes to the application may be faxed directly to the examiner at any time via RightFAX at (703) 746-4213. The examiner can normally be reached on **Mondays- Thursdays from 6:30 AM to 5:00 PM.**

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Greg Vidovich can be reached on 703-308-1513. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9302 for regular communications and 703-872-9303 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1148.

Other helpful telephone numbers are listed for applicant's benefit.

Allowed Files & Publication	(703) 308-6789 or (888) 786-0101
Assignment Branch	(703) 308-9723
Certificates of Correction	(703) 305-8309
Drawing Corrections/Draftsman	(703) 305-8404/8335
Petitions/Special Programs	(703) 305-9285
Terminal Disclaimers	(703) 305-8408
PCT Help Desk	(703) 305-3257

If the information desired is not provided above, or a number has been changed, please call the general information help line below.

Information Help line 1-800-786-9199
Internet PTO-Home Page <http://www.uspto.gov/>



David P. Bryant
Primary Examiner
Art Unit 3726